

REMARKS/ARGUMENTS

The specification has been amended as requested.

Original Claims 1-9 have been cancelled, and new Claims 10-26 have been presented.

In presenting new Claims 10-26 Applicants have taken into consideration the Examiner's comments made in the outstanding 35 USC 112 rejections. Because these comments and concerns have been addressed, these rejections are no longer applicable.

Support for new Claim 10 is found in original Claims 1-9 and at, e.g., specification page 12, lines 2-19. New Claim 11 is similarly supported at this portion of the specification, and by the original claims. New Claim 16 is supported by the original claims and at specification page 12 and, in addition, by specification page 20, lines 21-33. New Claims 12, 13 and 17 are supported by the specification and by the claims from which they depend. New Claims 14, 15 and 18 are also supported by the specification as originally filed and by the claims from which they depend. New Claims 19-12 are supported by Claims 10 and 16. No new matter has been entered.

The claims have been rejected as anticipated by Luchsinger, as evidenced by a 2009 Wikipedia download. However, and as apparent from, e.g., new Claim 10, Applicants' presently claimed method for manufacturing a product of processed wheat, barley, oat or rye detailed in New Claim 10 requires the freeze-drying of the seed after soaking and without germinating the seed. Luchsinger, on the other hand, relates to a process wherein an acidic substance is applied to the grain to inhibit growth (column 3, lines 25-28) during steep while contacting the grain with a growth-stimulating amount of gibberellic acid (column 3, lines 11-24 and 39-53).

Nowhere in Luchsinger is a step of freeze-drying a seed of wheat, barley, oat or rye without germinating disclosed or suggested.

In fact, Luchsinger is concerned with malting which is defined at column 1, lines 13-15 of the reference *as germination*:

~~MAINTAIN A NOVEL MALTING PROCESS WHICH GIVES UNPREDICTED INCREASES IN COVERAGE, OR YIELDS, OF MALT.~~
It is well known that cereal grains such as barley, rye, oats and wheat can be germinated, i.e., malted, to modify the kernel structure, composition and enzyme content. 15 The resulting malts have many important uses in foods for animals and humans. Most important of all, however, is malted barley which is a basic material used in the brewing and distilling industries.

Thus, the overall goal of Luchsinger is to provide a “novel malting process” (column 3, lines 12-13) by providing a steep solution which provides enhanced malting – i.e., enhanced germination. Because the goal of Luchsinger is to provide enhanced germination and, thereby, an improved malting process, it would be antithetical to the reference’s teachings to freeze-dry a seed of, e.g., barley without germinating the seed: under such conditions no malting could occur, and Luchsinger’s purpose would be frustrated.

The Wikipedia download, to any extent available against the presently pending application, is apparently cited to demonstrate the use of malt extracts. However, and as explained in Luchsinger, malting is germination, and presently pending Claim 10 requires the freeze-drying of the seed without germinating the seed. New Claim 16, which relates to an extraction solution, is also patentably distinct from Luchsinger and the Wikipedia download as the extraction solution produced in new Claim 16 is also produced without germinating the seed of wheat, barley, oat or rye. Thus, there is no malting as in Luchsinger and the Wikipedia download.

Accordingly, and because the references cited do not disclose or suggest what Applicants are claiming it is respectfully requested that the Examiner reconsider and withdraw the outstanding rejections, and pass this case to Issue.

Respectfully submitted,

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